

# HOUSE BILL REPORT

## HB 1391

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### As Passed Legislature

**Title:** An act relating to filling vacancies in the office of mayor.

**Brief Description:** Clarifying that councilmembers are eligible to be appointed to the office of mayor.

**Sponsors:** By Representatives Eddy, Ross, Curtis, Jarrett, Morrell and B. Sullivan.

#### Brief History:

##### Committee Activity:

Local Government: 1/30/07, 2/6/07 [DP].

##### Floor Activity:

Passed House: 2/23/07, 93-0.

##### Floor Activity:

Passed House: 1/28/08, 93-0.

Passed Senate: 3/6/08, 49-0.

Passed Legislature.

#### Brief Summary of Bill

- Allows incumbent council members of cities or towns to fill, by appointment, a vacancy in the office of mayor.
- Deletes a requirement obligating councils of second class cities to appoint a councilmember to fill a vacancy in the office of mayor.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass. Signed by 7 members: Representatives Simpson, Chair; Eddy, Vice Chair; Curtis, Ranking Minority Member; Schindler, Assistant Ranking Minority Member; Ross, B. Sullivan and Takko.

**Staff:** Ethan Moreno (786-7386).

#### Background:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

### Forms of Government and City Classification

Cities and towns in Washington are classified by the estimated total population at the time of organization, incorporation, or reorganization of an area. Four classifications of municipal government exist in statute: first class cities; second class cities; towns; and optional municipal code cities (code cities).

Municipalities determine the form of government by which administrative, legislative, and policy actions within their jurisdiction are implemented. The forms of government found in Washington include:

- mayor-council - the policy and administrative duties of a mayor-council form of government remain separate from each other. Legislative and policy-making powers are vested in the city council, while administrative authority is vested in the mayor. Mayors also possess veto power in first class cities, second class cities, and code cities.
- council-manager - legislative and policy-making powers of a council-manager form of government are vested in the city council. A city manager is appointed as the head of the administrative branch of city government and carries out the policies and plans developed by the council. A mayor is selected by the city council from either among its members or by election.
- commission - executive and legislative authority in a commission form of government are combined into one elected body. Commissioners are authorized to determine the powers and duties of all officers and employees of each department by ordinance. Each commissioner administers a department, including the mayor, and only possesses administrative authority over their respective department.

### Vacancies

Statute governs the procedures for filling elected or appointed officials' vacancies. The procedures vary depending on whether the elective position is in a nonpartisan or partisan office, the classification of the city or town, and the form of government utilized by the jurisdiction. Statutory provisions directing the filling of mayoral vacancies in the following do not authorize the appointment of incumbent councilmembers:

- second class cities;
- second class cities operating under a mayor-council form of government;
- towns; and
- code cities operating under a mayor-council form of government.

Statute also governs procedures for filling vacant mayor pro tempore and mayor positions in second class cities. The members of the city council of a second class city must, at its first meeting each calendar year and whenever a vacancy occurs in the office of mayor pro tempore, elect from among their number a mayor pro tempore. Additionally, if a vacancy occurs in the office of mayor, the city council at its next regular meeting, must elect from among their number a mayor who serves until a mayor is elected and certified at the next municipal election.

**Summary of Bill:**

Statutory provisions directing the filling of mayoral vacancies in the following are modified to allow the appointment of incumbent councilmembers:

- second class cities;
- second class cities operating under a mayor-council form of government;
- towns; and
- code cities operating under a mayor-council form of government.

A requirement obligating councils of second class cities to, at the first regular meeting following a vacancy in the office of mayor, appoint a councilmember to fill a vacancy, is deleted.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) This is a finding by the state auditor. Mayor-council forms of government have been operating this way for years. The auditor has decided under current law that council members have to resign from their position in order to fill a vacancy. This is a simple change that allows mayors to be eligible without resigning their position.

(Opposed) None.

**Persons Testifying:** Victoria Lincoln, Association of Washington Cities.

**Persons Signed In To Testify But Not Testifying:** None.